HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32(2)(b)

Description of the case.

W.P. No. 970/03(S/S)
Qamrunnisa

Vs

Chief Engineer Garhwal and others.

Approved for reporting.

_____

~~Not approved for reporting~~

Date of decision 01.10.2004.

Initial of Judge

Reserved

HIGH COURT OF UTTARANCAHL AT NAINITAL

Writ Petition No. 970 of 2003 (SS)

Qamrunnisa ..... Petitioner

Versus

The Chief Engineer Garhwal, Uttaranchal
Pey Jsal Nigam, Dehradun & another ..... Respondents

Sri S.S. Chauhan Advocate for the petitioner
Sri D.S. Patni, Advocate for the respondents.

Dated: October 01, 2004

Hon. Rajesh Tandon J.

By the present writ petition the petitioner has prayed for the issue of a writ of mandamus directing the respondents to appoint the petitioner on the post of Helper on regular basis in accordance with her qualification with effect from the dated 1.1.1997.

Briefly stated the facts giving rise to the present writ petition are that the husband of the petitioner namely Sri Mohemad Ayub was employed in U.P. Jal Nigam on the temporary post of driver on 1.3.1983, who died in harness in the year 1995. The petitioner was given employment in place of her husband on the post of helper on compassionate ground and she is continuously working on said post since 1.1.1997. The petitioner has submitted that she may be given regular appointment on the basis of Dying in Harness Rules as per

letter of the Chief Engineer U.P. Jal Nigam Lucknow N. 972/A (4-2) dated 9.8.1998 the persons who had completed five years of service in the year 1989, their services have to be regularized. The petitioner has further submitted that she made several representations before the respondents agitating her grievance but till date no decision has been taken by the respondent in this regard. She also annexed copy of her representation dated 27.02.2002 with the writ petition.

The employment was given to the petitioner on compassionate ground keeping in view the poor financial condition of the petitioner after the death of her husband and she cannot claim appointment on some post as of right as Dying in Harness Rules is not source of appointment.

It has been held in the case of Syed Sujjat Hasan vs. District Judge, Lakhimpur Kheri and others (1999) 1 UPLBEC 7851, as under:

"In the case of Umesh Kumar Nagpal Hon'ble Supreme Court further observed that the whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post held by the deceased. What is further, mere death of an employee, in harness does not entitle any member of the family to such source of livelihood. The Government of the authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to offered to the eligible member of the family. The posts in classes III and IV are the lowest posts in non-manual and a manual

categories and hence they along can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency."

However, as the petitioner is working continuously in the department since 1.1.1997, she can claim regularization on the ground of her long service in the department.

Liberty is given to the petitioner to move a fresh representation to the respondent for her regularization in the service within 15 days after obtaining the certified copy of this order. The respondents are directed to decide such representation within a period of six weeks by a reasoned order.

Subject to the aforesaid observation, the writ petition is disposed of.

No order as to costs.

(Rajesh Tandon, J.)

October 01, 2004
*Dhyani